



# POWER OF ATTORNEY



## 1. What is a Power of Attorney?

A Power of Attorney (POA) is a written instrument that allows you (the "principal") to authorize your agent (your "attorney-in-fact") to conduct certain business for you. It is one of the most powerful legal documents that you can give to another. Acts performed by your agent are legally binding upon you as long as those acts are authorized under the power of attorney. For example, if you give your agent a power of attorney to sell your car, and your agent then sells your car, the sale is legal and binding upon both you and the buyer of the car. There are two types of POA; "general" and "special" (or limited). Since a POA is such a powerful document, give it only to a trustworthy person, limit the authority you grant whenever possible, and only give a POA when absolutely necessary.

## 2. What is a General Power of Attorney?

A *General* Power of Attorney (GPOA) gives your agent very broad powers to act on your behalf. With a general power of attorney your agent could sell or mortgage your home; sell your car; buy a car in your name; withdraw money from your bank account; borrow money in your name, which you would then be responsible to repay; sign contracts in your name; order a credit card in your name; etc. Essentially your agent is authorized to do anything you could do personally, and those acts would be legally binding on you. If you need someone to perform only specific tasks for you, then you don't need a GPOA. Get a *Special* Power of Attorney—one that will authorize your agent to perform only those specific tasks.

General Powers of Attorney often cause problems for a husband and wife who are having marital problems because either party can misuse the power of attorney to cause the other party financial distress.

## 3. What is a Special Power of Attorney?

A *Special* Power of Attorney authorizes your agent to perform a specific act or acts. For example, you may authorize your agent to sell or register your car, to ship or receive household goods, to cash your paycheck, etc.

## 4. Do third parties have to accept my power of attorney?

No one has to accept a power of attorney. It is entirely within the discretion of third parties, such as banks or other businesses, to accept or reject your agent's power of attorney.

## 5. What is a Medical Care / Guardianship Power of Attorney?

A Medical Care / Guardianship Power of Attorney authorizes your agent to act on your behalf with respect to your children or dependents. For example, you may authorize your agent to seek medical, dental, and hospital treatment for your child, enroll your child in school, etc. Please note that a Guardianship Power of Attorney is not a true guardianship - you still retain full legal custody of your child(ren).

## **6. What precautions should I take in executing a Power of Attorney?**

It is recommended that you grant no more authority to your agent than what is absolutely necessary. Furthermore, your agent should be a person for whom you have the utmost trust and confidence. Don't set the expiration date longer than you will need your agent's services, and don't give the Power of Attorney before it will be needed. When you prepare a power of attorney, you should make a copy for your records and give the original to your agent. A photocopy of your power of attorney will not contain original signatures and will generally be unacceptable to third parties due to the possibility of fraud.

You can determine how long a power of attorney remains valid by specifying an expiration date in the document. Generally, you should allow your power of attorney to remain valid only for as long as it takes to accomplish the task for which the power of attorney was created.

## **7. What is a "Durable" Power of Attorney?**

Generally, a power of attorney automatically expires upon your death or mental incapacity. If you elect a durable power of attorney, your power of attorney will remain in effect until your specified date of expiration, even if you become mentally incapacitated, disabled, or declared missing in action or a prisoner of war. However, a durable power of attorney still expires upon your death.

## **8. Can I revoke my Power of Attorney?**

If you lose trust in your agent, you should revoke your power of attorney. You may revoke or cancel your power of attorney at any time. Request that your agent return the original to you so that you can destroy it. If this is not possible, you can send your agent a letter of revocation. A copy of the letter of revocation should be sent to all businesses at which you believe your agent may try to use the power of attorney. This way such businesses will know to reject the revoked power of attorney. The Legal Assistance Office has letter of revocation forms available.

*\* This handout is for general informational purposes only. For specific questions concerning individual circumstances, or for questions in general about powers of attorney, contact the Legal Assistance Office in your area.*

Yongsan Client Legal Services Office, Bldg 4106, room 229 (ACS building). Please call 738-6841 for an appointment. Office hours: M, Tu, W, F 0900-1600 and Th 1300-1500.
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